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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
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| 09/254,578 | 04/14/1999 | DALIBOR BLAZEK | 12691.4USWO | 7213 |

23552 7590 11/29/2001

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EXAMINER

DOAN, ROBYN KIEU

| ART UNIT | PAPER NUMBER |
|----------|--------------|
|----------|--------------|

3732

DATE MAILED: 11/29/2001

#22

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/254,578

Applicant(s)

BLAZEK, DALIBOR

Examiner

Robyn Doan

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on 12 September 2001.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☐ Claim(s) 1-18, 21, 24 and 25 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☐ Claim(s) 1-18, 21, 24 and 25 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on _____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
a) ☒ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. _____.
3. ☒ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s). _____
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449) Paper No(s) 21. 6) ☐ Other:

DETAILED ACTION

Applicant's Amendment filed 09/12/2001 has been entered and carefully considered. Claims 1 and 21 have been amended. Limitations of amended claims have not been found to be patentable over newly discovered prior art. Therefore, claims 1-18, 21, 24-25 are rejected under the new ground rejections as set forth below.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Claims 1, 3, 6, 8-10 and 21, 24-25 are rejected under 35 U.S.C. 103(a) as being unpatentable over Swiss Patent CH237277 in view of Aitken.

With regard to claim 1, 3, 6, 8-10, 13-18, 21, 24-25, CH237277 discloses a nail file comprising nail file body having a single integral of glass. CH237277 does not disclose the process of making the abrading surface having at least one sanded surface, however, Aitken discloses a process making a file with an abrading surface with at least

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one sanded surface. The CH237277 shows the roughing surface in the form of cut teeth. The specific process is not given patentable weight in the article claimed. It would have been obvious to one having an ordinary skill in the art at the time the invention was made to employ the process of making sanded surface as taught by Aitken into the nail file of CH237277 for the purpose of intended use.

Claims 2, 4-5 and 7 are rejected under 35 U.S.C. 103(a) as being unpatentable over CH237277 in view of Aitken as applied to claim 1 above, and further in view of Daley.

With regard to claims 2, 4-5 and 7, CH237277 and Aitken disclose a nail file comprising all the claimed limitations in claim 1 as discussed above except for the shape of the nail's body being an oblong shape and the edges of the body being belleted. Daley discloses a nail file (fig. 4) comprising a body (36) being an oblong shape and the edges of the body being belleted. It would have been obvious to one having an ordinary skill in the art at the time the invention was made to construct the body of the nail file being an oblong shape as taught by Daley into the nail file of CH237277 in view of Aitken for the purpose of intended use.

Claim 11 is rejected under 35 U.S.C. 103(a) as being unpatentable over CH237277 in view of Aitken and further in view of Pangburn.

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With regard to claim 11, CH237277 and Aitken disclose a nail file comprising all the claimed limitation in claim 1 as discussed above except for the abrading surface having a roughness varying from 10-100 microns. Pangburn discloses a nail file (fig. 1) comprising a body (10) which has a glass surface (11a) and an abrading material (11) being disposed on at least part of the surface with a roughness varying from 10-100 microns (col. 2, line 40). It would have been obvious to one having an ordinary skill in the art at the time the invention was made to employ the roughness of the abrading surface varying from 10-100 microns as taught by Pangburn into the nail file of CH237277 in view of Aitken for the purpose of intended use.

Claim 12 is rejected under 35 U.S.C. 103(a) as being unpatentable over CH237277 in view of Aitken and further in view of Tsukamoto.

With regard to claim 11, CH237277 and Aitken disclose a nail file comprising all the claimed limitation in claim 1 as discussed above except for one end of the body being V-shaped. Tsukamoto discloses a nail file (fig. 1) comprising a body with one end being V-shaped. It would have been obvious to one having an ordinary skill in the art at the time the invention was made to employ the V-shaped end as taught by Tsukamoto into the nail file of CH237277 in view of Aitken for the purpose of intended use.

Claims 19 and 23 are rejected under 35 U.S.C. 103(a) as being unpatentable over CH237277 in view of Aitken and further in view of Bray.

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With regard to claims 19 and 23, CH237277 and Aitken disclose a nail file comprising all the claimed limitation in claim 21 as discussed above except for one abrading surface being a sanded surface. Bray discloses a nail file having a body and at least one abrading surface being a sanded surface (col. 4, lines 9-10). It would have been obvious to one having an ordinary skill in the art at the time the invention was made to employ the sanded surface as taught by Bray into the nail file of CH237277 and Aitken for the purpose of intended use.

Claims 20 and 22 are rejected under 35 U.S.C. 103(a) as being unpatentable over CH237277 in view of Aitken and further in view of Bankier et al.

With regard to claims 19 and 23, CH237277 and Aitken disclose a nail file comprising all the claimed limitation in claim 21 as discussed above except for one abrading surface being an acid etched. Bankier et al disclose a method of making nail file comprising an abrading surface being an acid-etched (col. 4, lines 43-48). It would have been obvious to one having an ordinary skill in the art at the time the invention was made to employ the acid-etched surface as taught by Bankier et al into the nail file of CH237277 and Aitken for the purpose of intended use.

Response to Arguments

Applicant has argued that the process of sanding or acid etched provides the roughness of the file's body with an essentially random texture; this is not true because sanding or acid etched process does not necessary provide a specific shape such as random texture, therefore, the argument to this limitation is not given any weight.

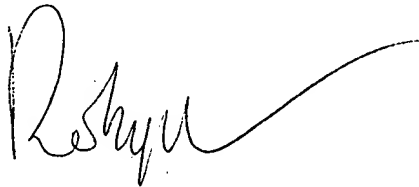
Applicant's amendment necessitated the new ground(s) of rejection presented in this Office action. Accordingly, **THIS ACTION IS MADE FINAL**. See MPEP § 706.07(a). Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than **SIX MONTHS** from the date of this final action.

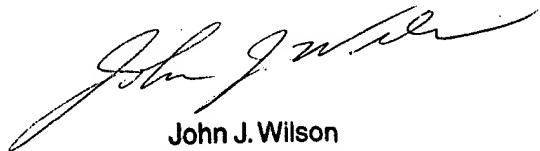
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Any inquiry concerning this communication or earlier communications from the examiner should be directed to Robyn Doan whose telephone number is (703) 306-9182. The examiner can normally be reached on Mon-Fri 9:30-7:00; alternate Mondays off.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 308-0873.



Robyn Kieu Doan
Examiner
November 19, 2001



John J. Wilson
Primary Examiner